

1 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

2
3 **RESOLUTION NO. 2011 –**

4
5 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH**
6 **FLORIDA WATER MANAGEMENT DISTRICT AUTHORIZING A FINAL**
7 **PURCHASE OFFER AND EMINENT DOMAIN PROCEEDINGS FOR THE**
8 **ACQUISITION OF CERTAIN LAND INTERESTS, CONSISTING OF 3.7**
9 **ACRES, MORE OR LESS, IN POLK COUNTY, FLORIDA, WHICH ARE**
10 **PART OF THE KISSIMMEE RIVER RESTORATION AND HEADWATERS**
11 **REVITALIZATION PROJECT FOR WHICH DEDICATED FUNDS**
12 **(FLORIDA FOREVER TRUST FUND) ARE BUDGETED; DECLARING**
13 **SURPLUS, DISPOSAL OF, AND REMOVAL FROM THE ASSET**
14 **RECORDS, ANY SUCH STRUCTURES AND IMPROVEMENTS DEEMED**
15 **UNNECESSARY FOR THE STATED PURPOSE OF THE ORIGINAL**
16 **LAND ACQUISITION; PROVIDING AN EFFECTIVE DATE.**

17
18 **WHEREAS**, the Florida Legislature has declared in Section 373.1501(3), Florida
19 Statutes, that the Kissimmee River Restoration and Headwaters Revitalization Project
20 (hereinafter "Project") is in the public interest, for a public purpose, and therefore
21 necessary for the public health and welfare; and

22 **WHEREAS**, the Project is defined in Section 373.1501(1)(d), Florida Statutes, in
23 relevant part, as the project identified in the Project Cooperation Agreement between the
24 United States Department of the Army and the South Florida Water Management District
25 (hereinafter "District") dated March 22, 1994; and

26 **WHEREAS**, the primary objectives of the Project are: (1) to reestablish the
27 structure and function of the historic, pre-channelized river channel and floodplain; (2) to
28 reestablish the historic flows to the restored river channel and floodplain; and, (3) the
29 modification of water levels throughout the river system to provide both greater and more
30 natural fluctuations in the upper basin lakes. Flows into the Kissimmee River from the
31 upper basin lakes will further reestablish the natural Kissimmee River floodplain; and

32 **WHEREAS**, the implementation of the Project and the reestablishment of the
33 historic river channel and floodplain will cause the water levels in the restored river and the
34 upper Chain of Lakes (Headwaters) to fluctuate impacting properties cited in this
35 Resolution; and

36 **WHEREAS**, the acquisition of perpetual flowage and inundation easements
37 between 52.5 and 54 feet NGVD is necessary because this area will be affected by the
38 fluctuation in water levels; and

39 **WHEREAS**, Florida Legislature has determined in Section 373.1501(3), Florida
40 Statutes, that the acquisition of real property interests for the objective of implementing the
41 Project is necessary and constitutes a public purpose for which public funds may be
42 expended; and

43 **WHEREAS**, the Florida Legislature in Section 373.1501(3), Florida Statutes, has
44 empowered and authorized the Governing Board of the South Florida Water Management
45 District to acquire interests in lands by eminent domain for the purpose of implementing
46 and maintaining the Project; and

47 **WHEREAS**, the Florida Legislature in Section 373.1501(3), Florida Statutes, directs
48 the District, in the absence of a willing seller, to acquire any land interests necessary for
49 the implementation for the Project in accordance with state condemnation law pursuant to
50 Chapters 73 and 74, Florida Statutes; and

51 **WHEREAS**, the District has been unsuccessful in negotiating the voluntary
52 purchase of the land interests, comprising 3.7 acres, more or less, located in Polk County,
53 and;

54 **NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South
55 Florida Water Management District that the acquisition by the District of the following
56 lands, in the area of Kissimmee River Restoration and Headwaters Revitalization Project,
57 consisting of 3.7 acres, more or less, as shown on the map attached hereto as Exhibit
58 “AA” and as more particularly described on attached Exhibit “A”, hereinafter referred to as
59 the “easement parcel”, with respect to which the District will seek to acquire a perpetual
60 flowage and inundation easement according to the provisions attached hereto as Exhibit
61 “C” and subject to those interests attached hereto and made a part hereof as Exhibit “B, is
62 found by the Governing Board of the District to be necessary to complete the Kissimmee
63 River Restoration and Headwaters Revitalization Project and is in the public interest and
64 for a public purpose:

65 The easement parcel with respect to which the District will seek to acquire a
66 perpetual flowage and inundation easement is referred to as SFWMD Tract No. 18117-
67 006 and consists of a total of 3.7 acres, more or less, lying in Polk County, Florida. In
68 accordance with Section 73.015, Florida Statutes, the Governing Board of the South
69 Florida Water Management District hereby authorizes and directs staff to make a final
70 written offer to voluntarily purchase land interests containing a total of 3.7 acres, more of

less, for the Kissimmee River Restoration and Headwaters Revitalization Project, in amounts no greater than as stated below, together with associated costs, as follows:

| Tract No. | Owners Name | Easement Acres | Appraised Value | Final Purchase Offer |
|----------------|---|----------------|-----------------|----------------------|
| 18117-006 | William C. Zipprer, III and Lynda Z. Wetzel | 3.7 | \$23,500 | \$30,550 |
| Totals: | | 3.7 | \$23,500 | \$30,550 |

Budgeted:

| Dollars | Fund | Fund Center | Functional Area | Commitment Item GL Account |
|----------|--------|-------------|-----------------|----------------------------|
| \$30,550 | 404000 | 3510144000 | FD01 | 580013 |

BE IT FURTHER RESOLVED by the Governing Board of the South Florida Water Management District hereby approves the purchase of land interests, containing 3.7 acres, more or less, for the Kissimmee River Restoration and Headwaters Revitalization Project, in Polk County, in an amount not to exceed \$30,550 together with associated costs, and approves declaring surplus, disposal of, and removal from the asset records, any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition, upon acceptance of the above-referenced offer.

BE IT FURTHER RESOLVED by the Governing Board of the South Florida Water Management District hereby authorizes the Chair to execute an Agreement for Sale and Purchase upon acceptance of any or all of the above referenced final purchase offer.

BE IT FURTHER RESOLVED by the Governing Board of the South Florida Water Management District approves utilization of dedicated funds (Florida Forever Trust Fund).

BE IT FURTHER RESOLVED by the Governing Board of the South Florida Water Management District that a Legal Officer of the District is hereby authorized, instructed, and directed to acquire by eminent domain land interests with respect to a perpetual flowage and inundation easement, to institute or cause to be instituted eminent domain

proceedings as may be necessary pursuant to Chapters 73 and 74, Florida Statutes, to
avail the District of all eminent domain powers and procedures authorized by Florida
Statute and by rule of court, and to accomplish the acquisition described herein, including
the authority to negotiate the acquisition of the described property subject to the approval
of the Governing Board. This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this ____ day of _____, 2011

ATTEST:

By: _____
District Clerk/Secretary

(Corporate Seal)

**SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD**

By: _____
Chair

Approved as to form:

By: _____
Office of Counsel